

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

JOHN PAUL HENRICKSON,

Plaintiff,

v.

No. 14cv1117 MCA/KK

CENTRAL INTELLIGENCE AGENCY,

Defendant.

**MEMORANDUM OPINION AND ORDER GRANTING  
MOTION TO PROCEED IN FORMA PAUPERIS AND DISMISSING CASE**

**THIS MATTER** comes before the Court on Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs, Doc. 2, filed December 9, 2014. For the reasons stated below, the Court will **GRANT** the application and **DISMISS** this case without prejudice.

**Motion to Proceed *in forma pauperis***

The statute for proceedings *in forma pauperis*, 28 U.S.C. § 1915(a), provides that the Court may authorize the commencement of any suit without prepayment of fees by a person who submits an affidavit that includes a statement of all assets the person possesses and that the person is unable to pay such fees.

When a district court receives an application for leave to proceed in forma pauperis, it should examine the papers and determine if the requirements of [28 U.S.C.] § 1915(a) are satisfied. If they are, leave should be granted. Thereafter, if the court finds that the allegations of poverty are untrue or that the action is frivolous or malicious, it may dismiss the case[.]

*Menefee v. Werholtz*, 368 Fed.Appx. 879, 884 (10th Cir. 2010) (citing *Ragan v. Cox*, 305 F.2d 58, 60 (10th Cir. 1962). “[A]n application to proceed *in forma pauperis* should be evaluated in light of the applicant's present financial status.” *Scherer v. Kansas*, 263 Fed.Appx. 667, 669 (10th Cir. 2008) (citing *Holmes v. Hardy*, 852 F.2d 151, 153 (5th Cir.1988)).

Plaintiff signed an affidavit in support of his Application in which he declares that he is unable to pay the costs of these proceedings and declares under penalty of perjury that the information regarding his income is true. Plaintiff states that: (i) his average total monthly income for the previous 12 months is \$711.00 in disability and \$91.00 in food stamps for a total of \$802.00, which he receives because of his mental illness; (ii) his total monthly expenses are \$450.00; (iii) he has \$0.00 cash and \$0.00 in his bank account; and (iv) his only assets are a computer and a guitar with a combined worth of \$600.00. The Court will grant Plaintiff's Application to Proceed in District Court Without Prepaying Fees or Costs because his only income is disability payments and food stamps, and because he has no cash and no money in bank accounts.

### **Dismissal of *In Forma Pauperis* Proceedings**

The statute governing proceedings *in forma pauperis*, 28 U.S.C. § 1915(e)(2)(B)(i), states that “the court shall dismiss the case at any time if the court determines that . . . the action . . . is frivolous.”

“[A] court may dismiss a claim as factually frivolous only if the facts alleged are ‘clearly baseless,’ a category encompassing allegations that are ‘fanciful,’ ‘fantastic,’ and ‘delusional.’ As those words suggest, a finding of factual frivolousness is appropriate when the facts alleged rise to the level of the irrational or the wholly incredible....” *Denton v. Hernandez*, 504 U.S. 25, 32–33, 112 S.Ct. 1728, 118 L.Ed.2d 340 (1992) (citations and internal quotation marks omitted). It is not enough that the factual allegations be unlikely, “for truth is always strange, Stranger than fiction.” *Id.* at 33, 112 S.Ct. 1728 (internal quotation marks omitted). The court must therefore be cautious, even understanding, before invoking this ground for dismissal.

*McEntire v. Federated Inv. Management*, 510 Fed.Appx. 792, 793 (10th Cir. 2013); *see also Curley v. Perry*, 246 F.3d 1278, 1284 (10th Cir. 2001) (“sua sponte dismissal of a meritless complaint that cannot be salvaged by amendment comports with due process and does not infringe the right of access to the courts”).

The Court will dismiss Plaintiff's case because it is factually frivolous and cannot be salvaged by amendments. Plaintiff states that he has been diagnosed with schizophrenia. *See* Complaint at 2, Doc. 1. Plaintiff alleges that Defendant Central Intelligence Agency "stuck a signal on [his] crotch and deliberately moves it around in a way that is outrageous," and "turns the scrotum purple and red, along with providing a very strong churning sensation," which Plaintiff concludes is the main cause of his schizophrenia for over ten years. Complaint at 3, 7-8. Plaintiff states he "was unable to get other people to believe [him] for several years, until [he] got a solid [video] recording of the movement, which was difficult because the movement is normally seen to stop when you try to record the movement or see a doctor about it." Complaint at 8. Plaintiff also states that approximately six doctors have looked into Plaintiff's alleged condition but the "doctors have not been able to offer me a solution about what I can do to get rid of the problem, except for recommend that I try to avoid regular coffee." Complaint at 7-8. Plaintiff's allegations, that the Central Intelligence Agency stuck a signal on his crotch which moves his scrotum around causing his schizophrenia, are wholly incredible.

**IT IS THEREFORE ORDERED** that Plaintiff's Application to Proceed in District Court without Prepaying Fees or Costs. Doc. 2, filed December 9, 2014, is **GRANTED**.

**IT IS ALSO ORDERED** that this case **DISMISSED** without prejudice.



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**CHIEF UNITED STATES DISTRICT JUDGE**